

## Article 9.5: Noise Abatement and Control

### Division 2: Administration

*(“Administration” added 9-18-1973 by O-11122 N.S.)*

#### §59.5.0201 Establishment of Noise Abatement and Control Administrator

There is hereby established within the Neighborhood Code Compliance Department of The City of San Diego the function of Noise Abatement and Control Administration which shall be administered by the Director of the Neighborhood Code Compliance Department (hereinafter referred to as the “Administrator”).  
*(Amended 7-25-1994 by O-18088 N.S.)*

#### §59.5.0202 Duties and Responsibilities of the Administrator Noise Abatement

- (a) The Administrator and his staff have the responsibility of regulating and controlling the emission of all excessive or offensive noises within the City of San Diego and shall take such action, subject to the provisions of this article, as is reasonable and necessary to abate noise. The Administrator shall coordinate the activities of all City departments relating to noise control and reduction in those activities carried out by the various departments, including the Environmental Impact Report review process relating to noise pollution. The Administrator may exercise or delegate any of the functions, powers and duties vested in his office or in the administration of his office.
- (b) The Administrator is expressly charged:
  - (1) To make any necessary investigations, inspections, or studies which, in his opinion, are necessary for the purpose of enforcing the provisions of this article or controlling or abating a disturbing, excessive or offensive noise. Information derived from noise studies shall be made available to the public upon request.
  - (2) To institute necessary proceedings to prosecute violations of this article and to compel the prevention and abatement of disturbing, excessive, or offensive noise, and as further set forth in Division 6 of this article.
  - (3) To grant or issue variances, permits, notices, or other matters required under the provisions of this article as will not be contrary to its intent or detrimental to the public health, safety, and general welfare of the

citizens of the City of San Diego, when, due to special conditions, strict and literal interpretation and enforcement of the provisions of this article would result in unusual difficulties or unnecessary hardship or be inconsistent with the general purposes of this article. In granting any such variance or permit, the Administrator shall hold hearings and may impose such conditions as he deems necessary or desirable to protect the public health, safety, and general welfare in accordance with this article.

The requirement for a public hearing prior to issuing a permit or variance may be waived by the Administrator where a single social event is scheduled to occur between the hours of 7:00 a.m. and 11:00 p.m. and does not involve more than 200 persons or where a Special Event Permit is issued pursuant to Chapter II, Article 2, Division 40 of this Code by the City Manager.

- (4) To do any and all other acts which may be necessary for the successful prosecution of the purposes of this article and such other acts as may be specifically enumerated herein as duties.

*(“Duties and Responsibilities of the Administrator Noise Abatement” retitled and amended 11-18-1997 by O-18439 N.S.)*

#### **§59.5.0203 Issuance of Permits or Variances by Administrator**

The Administrator shall evaluate all applications for permits or variances from the requirements of this article and may grant said variances with respect to time for compliance, subject to such terms, conditions, and requirements as he or she may deem reasonable to achieving compliance with the provisions of this article. Each such variance shall set forth in detail the approved method of achieving compliance and a time schedule for its accomplishment. If in the judgment of the Administrator the time for compliance cannot be reasonably determined, a permit to cause the noise may be issued for a period not to exceed three (3) years. In determining the reasonableness of the terms of any proposed permit or variance, said Administrator shall consider the magnitude of nuisance caused by the offensive noise, the uses of property within the area of impingement by the noise, operations carried on under existing nonconforming rights or conditional use permits or zone variances, the time factors related to study, design, financing and construction use permits or zone variances, the time factors related to age and useful life of the equipment and the general public interest and welfare.

A nominal fee shall be charged to each applicant for processing permits or variances. Fee schedules shall be approved by Council resolution. A report of permits and variances shall be prepared monthly and be available for public review.

*(Amended 9-22-1976 by O-11916 N.S.)*

**§59.5.0204 Appeals**

Any person directly affected by the noise and/or the applicant who is aggrieved by approval or disapproval of a variance or permit by the Administrator may appeal in writing within fourteen (14) calendar days of the decision to the Neighborhood Code Compliance Department Deputy Director who will schedule an appeal hearing before a hearing officer appointed by the City Manager. In the case of a permit denial, the hearing shall be scheduled as soon as feasibly practical in order to consider the matter.

*(Amended 4-1-1996 by O-18281 N.S.)*

**§59.5.0205 Inspection by Administrator**

(a) The Administrator may inspect, at any reasonable time and in a reasonable manner, any device or mechanism (1) which is intended to, or which actually does produce sound and (2) which creates or may create any disturbing noise, including, but not limited to, the premises where such device or mechanism is used.

(b) If entry to premises is denied or refused, the Administrator shall obtain an inspection warrant from a court of a competent jurisdiction.

*(Amended 9-22-1976 by O-11916 N.S.)*

**§59.5.0206 The San Diego City Noise Map**

(a) The official record of noise levels in the City of San Diego shall be the San Diego City Noise Map. The Development Services Director shall compile existing records of sound level measurements and noise prediction models available to The City of San Diego, and take further sound level measurements as necessary. From these records, measurements and models, the Development Services Director shall determine Community Noise Equivalent Levels (CNEL) for The City of San Diego. The map shall be sufficiently detailed to enable a resident to locate his/her place of residence. Where adequate data are available the map shall be marked with isograms of CNEL at 60 decibels, and at five-decibel intervals above 60 decibels.

- (b) At least once each year the Development Services Director shall revise the San Diego City Noise Contours, correcting any inadequacies that may have become evident particularly from noise measurements made during the preceding year.
- (c) Any person may request the Development Services Director to accept for a location within the City of San Diego, a CNEL where none is predicted by the San Diego City Noise Map or which differs from the predicted one, subject to the following requirements. The request shall be accompanied by an estimate of the annual CNEL at the place that is based on a survey of noise there that includes essentially continuous measurement of the sound level over a period of at least two weeks, and appropriate information about the noise-making activity in the area during the test period and during the preceding year. These two items shall be such as to support the stated estimate of annual CNEL within an accuracy of two decibels. The survey and estimate of annual CNEL for the specific date and place shall be made by a qualified acoustical consultant at the expense of the applicant.

*(Amended 7-25-1994 by O-18088 N.S.)*